

STATE WATER RESOURCES CONTROL BOARD
THE PAUL R. BONDERSON BUILDING
901 P Street, Sacramento, CA

DIVISION OF WATER RIGHTS
P.O. BOX 2000, Sacramento, CA 95810



ORDER DIRECTING ISSUANCE OF SEPARATE
LICENSES AND REVOCATION OF LICENSE

WHEREAS:

1. License 7945-B was issued to the Strathearn Brothers on July 27, 1982.
2. A request for issuance of separate Licenses to cover Licensee's respective interest in License 7945-B has been filed with the State Water Resources Control Board.
3. The Board has determined that such division of license and issuance of separate licenses does not constitute the initiation of a new right nor operate to the injury of any other legal user of water.
4. The license condition pertaining to the continuing authority of the Board does not conform to the current common law public trust doctrine as contained in Title 23, California Code of Regulations, Section 780(a).

NOW, THEREFORE, IT IS ORDERED THAT:

1. License 7945-B be replaced by License 7945B1 issued to Strathearn Brothers and by License 7945B2 issued to Jan C. and Mary H. Mennig.
2. Superseded License 7945-B is hereby revoked upon issuance of Licenses 7945B1 and 7945B2.
3. Separate Licenses be issued as follows:

A. License 7945B1

- | | |
|-------------------------|--|
| 1. OWNER: | Strathearn Brothers |
| 2. SOURCE: | Two Unnamed Streams tributary to Chapman Creek thence Chowchilla River |
| 3. USE: | Stockwatering and Recreation |
| 4. AMOUNT: | 3 acre-feet per annum (Heifer Reservoir);
7.4 acre-feet per annum (Hart Reservoir);
10.4 acre-feet total per annum. |
| 5. SEASON: | October 1 to May 31 |
| 6. POINTS OF DIVERSION: | Heifer Dam: South 340 feet and West 1,840 feet from NE corner of Section 3, T7S, R18E, MDB&M; being within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 3, also described by the California Coordinate System in Zone 3, N 313,100 and E 2,150,000.

Hart Dam: South 2,020 feet and West 1,340 feet from NE corner of Section 3, T7S, R18E, MDB&M; being within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 3, also described by the California Coordinate System in Zone 3, N 311,300 and E 2,150,500. |

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7. PLACE OF
USE:

Heifer and Hart onstream reservoirs are located within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ and SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 3 respectively all located within T7S, R18E, MDB&M as shown on a map on file with the State Water Resources Control Board.

B. License 7945B2

1. OWNER:

Jan C. and Mary H. Mennig

2. SOURCE:

Unnamed Stream tributary to Chapman Creek thence Chowchilla River

3. USE:

Stockwatering and Recreation

4. AMOUNT:

0.7 acre-foot per annum (Section Reservoir)

5. SEASON:

October 1 to May 31

6. POINT OF
DIVERSION:

At Section Dam: North 1,600 feet and East 630 feet from SW corner of Section 26, T6S, R18E, MDB&M; being within the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of said Section 26, also described as California Coordinate System, Zone 3, N 320,600 and E 2,152,500.

7. PLACE OF USE:

Onstream Section Reservoir is located within the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 26, T6S, R18E, MDB&M; as shown on a map on file with the State Water Resources Control Board.

4. Licenses 7945B1 and 7945B2 shall contain all other terms and conditions presently in License 7945-B or the updated versions for compliance with the Board's policy.
5. The condition pertaining to the continuing authority of the Board is replace with the following:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing

evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

Dated:

DECEMBER 09 1988

for Lloyd Johnson
Walter G. Pettit, Chief
Division of Water Rights

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STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

APPLICATION 21175-B

PERMIT 14611

LICENSE 7945-B

THIS IS TO CERTIFY, That **STRATHEARN BROTHERS**
C/O GEORGE AND DOUGLAS STRATHEARN,
3081 BEN HUR ROAD, MARIPOSA, CALIFORNIA 95338

HAVE made proof as of **OCTOBER 5, 1966** (the date of inspection)
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of
3 UNNAMED STREAMS IN MARIPOSA COUNTY

tributary to **CHAPMAN CREEK THENCE CHOWCHILLA RIVER**

for the purpose of **STOCKWATERING AND RECREATIONAL USES**
under Permit **14611** of the Board and that the right to the use of this water has been perfected
in accordance with the laws of California, the Regulations of the Board and the permit terms; that the
priority of this right dates from **MARCH 1, 1963** and that the amount of water to which
this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated
purposes and shall not exceed **ELEVEN AND ONE-TENTH (11.1) ACRE-Feet PER ANNUM TO BE**
COLLECTED FROM OCTOBER 1 OF EACH YEAR TO MAY 31 OF THE SUCCEEDING YEAR AS FOLLOWS:

- | | |
|-----------------------|-------------------------|
| (1) HEIFER RESERVOIR | 3.0 ACRE-Feet PER ANNUM |
| (2) HART RESERVOIR | 7.4 ACRE-Feet PER ANNUM |
| (3) SECTION RESERVOIR | 0.7 ACRE-Feet PER ANNUM |

LICENSEE'S RIGHT HEREUNDER EXTENDS ONLY TO WATER NECESSARY TO KEEP THE RESERVOIR
FULL BY REPLACING WATER BENEFICIALLY USED OR LOST BY EVAPORATION AND SEEPAGE AND
TO FILL IF EMPTIED FOR NECESSARY MAINTENANCE OR REPAIRS.

THE POINTS OF DIVERSION OF SUCH WATER ARE LOCATED:

- (1) SOUTH 340 FEET AND WEST 1,840 FEET FROM NE CORNER OF SECTION 3, T7S, R18E, MDB&M,
BEING WITHIN NW1/4 OF NE1/4 OF SAID SECTION 3,
- (2) SOUTH 2,020 FEET AND WEST 1,340 FEET FROM NE CORNER OF SECTION 3, T7S, R18E, MDB&M,
BEING WITHIN SW1/4 OF NE1/4 OF SAID SECTION 3,
- (3) NORTH 1,600 FEET AND EAST 630 FEET FROM SW CORNER OF SECTION 26, T6S, R18E, MDB&M,
BEING WITHIN NW1/4 OF SW1/4 OF SAID SECTION 26.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE
SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

AT RESERVOIRS DESCRIBED ABOVE.

Licensee shall allow representatives of the Board and other parties, as may be authorized from time to time by the Board, reasonable access to project works to determine compliance with the terms of this license.

Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to minimizing waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: JULY 27 1982

STATE WATER RESOURCES CONTROL BOARD

Raymond Wash
Chief, Division of Water Rights